

**Department of Defense
Regional Environmental Coordinator
Region III
Semi-Annual Report**



**Reporting Period
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I. Issues

A. Navy-Commonwealth of Virginia Coastal Land Use Conflicts

Issue: The Commonwealth of Virginia, through its Department of Environmental Quality (DEQ), Virginia Marine Resources Commission (VMRC), and Chesapeake Bay Local Assistance Board (CBLAD) raised regulatory concerns in response to several Department of the Navy development projects at Hampton Roads facilities, including emergency Anti-Terrorist Force Protection (AT/FP) measures.

Background: On 15 November 2001, representatives of the above-named Commonwealth of Virginia agencies met with representatives DoD/Navy REC, base compliance staff, and Naval Facilities Engineering Command (LANTDIV) to open a dialogue and amicably resolve these issues. These issues include Navy coastal consistency determination format; proposed Federal "*de minimis*" activities; Navy requirements to comply with state submerged lands permitting requirements and the extent of state development limitations on Navy-owned coastal lands.

Status of issues and proposed courses of action:

(1) Coastal Consistency Determinations.

Discussion: Navy proposed forwarding stand-alone Coastal Zone Management Act coastal consistency determinations (CCDs) to ensure state agency concurrence prior to Environmental Assessment (EA) Findings of No Significant Impact (FONSI). Virginia DEQ prefers to see draft EAs submitted as the Federal agency's CCD, because it provides more information relating to the project and avoids state agency duplicative reviews (these reviews find no NMDA

(2) "*De Minimis*" Activities.

Discussion: Navy proposed submission of a draft list of Federal agency activities determined to have "*de minimis*", if any, coastal affects not requiring further state agency consistency review. DEQ agreed, in principle, that some Federal agency activities should not require Federal consistency review resulting in significant reduction of Federal and state time, resources, and costs.

Action: DoD/Navy REC, on behalf of all DOD/USCG activities in the Commonwealth of Virginia, is negotiating DOD's first-ever "*de minimis*" activities exemption and general consistency determination ("*de minimis*" development projects).

(3) Virginia's Submerged Lands Management Act (SLMA).

Discussion: DoD/Navy REC, in conjunction with the Navy Regional Compliance staff, proposed that absent a waiver of Federal sovereign immunity, Navy activities are not required to comply with the Virginia Submerged Lands Management Act statutory and regulatory permitting requirements for Navy encroachments in, on, or over state-owned submerged lands. This issue arose in response to a VMRC threat of criminal enforcement and civil sanctions for deployment of an emergency AT/FP measure (deployment of a bottom-tethered float line along Naval Station Norfolk's Elizabeth River piers).

Navy also proposed that Federal regulations do not require compliance with state subaqueous lands permitting requirements for federal consistency under the CZMA. Virginia countered that while permitting may not be required, Federal agency activities encroaching in, on or over state-owned submerged lands without state approval constitutes an unlawful taking of state property - just as it would for any similar occupation or use of uplands. Navy recommended that the lawful exercise of the Federal

Action: Navy Regional Compliance staff, in conjunction with DoD/Navy REC, is negotiating a Memorandum of Agreement/Understanding with the Commonwealth of Virginia to address permitting requirements, exercise of the Federal Navigational Servitude, implementation of "Federal National Defense" right, and formal notification of Navy projects encroaching in, on, or over state-owned submerged lands. VMRC, through the Virginia Attorney General's office, is seeking a state legislative amendment to exclude "Federal National Defense Activities" from state permitting requirements.

(4) Coastal Lands Management.

Discussion: Navy proposed that absent a waiver of federal sovereign immunity, Virginia's Chesapeake Bay Preservation Act statutory and regulatory development and redevelopment criteria (zoning requirements) do not apply to federal lands. According to CBLAD, any Federal agency development or redevelopment on federal lands with Chesapeake Bay Resource Protection Area features (proximity to the Chesapeake Bay or its tributaries) within 100 foot riparian buffers) constitutes a "de facto" coastal effect requiring federal consistency and therefore full compliance. Recognizing the Act as an enforceable policy of the state's coastal management program requiring Federal Consistency, Navy maintains non-compliance is fully consistent with the Act's requirements because the implementing regulations expressly limit the development criteria only to properly designated resource Areas; not federal lands. CBLAD and the Navy REC feel that the issue differences could best be resolved through informal mediation with NOAA. CBLAD is planning to request a meeting with NOAA to determine Federal Agency's obligation to comply with this regulation under the Coastal Zone Management Act.

B. Environmental Counter-Terrorism Information Security

Issue: Need for systemic security review of all environmental information to ensure protection against inadvertent release of information pertaining to Homeland Security.

Background: Generally delegated to state and local regulatory agencies, environmental programs are predicated on a policy of mandated information releases to facilitate regulatory command and control and ensure shareholder involvement in the decision-making process. To that end, significant amounts of unscreened and potentially harmful operational security information is being released through numerous environmental information pathways including, but not limited to, NEPA documentation, contractors, public meetings, Federal and State Regulatory agency websites, permit applications, coastal consistency determinations, etc.

Impact: Potentially significant sensitive but unclassified information pertinent to Homeland Security is being intentionally released by DOD agencies and made readily available to potential terrorists. Currently, there is no agency, DOD or Executive Branch guidance (other than pertaining to agency FOIA releases).

Action: DOD needs a policy and mechanism to manage the agency's risk to Homeland Security versus the public benefits of the free exchange of environmental information. REC to draft DOD guidance/policy on the release of environmental information to include education, establishment of an informational review process, development of objective review criteria, and cooperation by Federal, state and local regulatory agencies.

C. Chesapeake Bay Restoration Act of 2000

Topic: Scope and impact of Chesapeake Bay Restoration Act

enhancing the U.S. Environmental Protection Agency's ("EPA") Chesapeake Bay Program.

Status: In addition to provisions addressing EPA oversight, technical assistance and grants designed to promote the restoration of the Chesapeake Bay, the CBRA imposes several new and significant planning, compliance, and reporting requirements on Federal agencies within the Chesapeake Bay watershed. Specifically, the CBRA requires affected Federal agencies to participate in regional and sub watershed planning and restoration programs, submit annual budget reports, comply with previously voluntary existing and future cooperative agreements -- Chesapeake Bay Agreement and Federal Agencies' Chesapeake Ecosystem Unified Plan ("FACEUP").

Impact: The CBRA's Federal agency planning and restoration participation requirement raises significant administrative, logistic, coordination and fiscal law issues concerning the extent of DOD expenditures of time, personnel, resources, and appropriated funds in Bay watershed planning and restoration efforts.

The CBRA's budget reporting requirement needs agency, DOD, or OMB individual DOD facility budgetary reporting compliance implementation guidance.

The CBRA's existing and future agreement compliance requirement requires a two-part analysis. Since by its express terms both the Chesapeake Bay Agreement and the FACEUP's DOD agency commitments are set forth as broad goals and voluntary initiatives, there should be relatively little impact to affected DOD facilities. To the extent the underlying agreements' goals, commitments and initiatives even apply to DOD facilities, they are currently only voluntary or conditional requirements requiring, at most, reasonable good faith compliance efforts.

On the other hand, the CBRA's requirement for DOD facilities

Action: DoD/Navy REC to forward to DOD a point paper requesting implementation guidance.

D. Implementation of Chesapeake 2000 "Government By Example" Storm Water Management/Executive Council (EC) Directive No. 01-1 "Managing Storm Water on State, Federal and District-Owned Lands and Facilities".

Issue: The Chesapeake 2000 (C2K) bay agreement required that a storm water directive be implemented by 2001 to control storm water quantity and quality from state, federal and District-owned lands in the Chesapeake Bay region. An executive council directive was signed in 2001 that lists multiple storm water commitments applicable to DOD facilities in the watershed, including, but not limited to: developing an inventory of target public lands; demonstrating how to manage storm water on developed and redeveloped lands and roadways; analyzing the effectiveness of demonstration projects; developing innovative storm water management technologies; educating and coordinating with communities and local governments; and measuring progress towards implementation.

Background: C2K contains approximately 90 discrete goals and objectives in five major categories: living resources, vital habitat, water quality, sound land use and stewardship and community engagement. One component of the stewardship and engagement section is the "government by example" subsection that requires (by 2001) the development of "an Executive Council Directive to address storm water management to control nutrient, sediment and chemical contaminant runoff from state, federal and District owned land". On 3 December 2001, the Chesapeake Executive Council (the governors of Virginia, Maryland and Pennsylvania, the mayor of D.C., the Chesapeake Bay Commission and the EPA) signed EC Directive No. 01-1 to implement the "government by example" storm water management subsection of C2K. The EC Storm Water directive expands upon the original C2K goal by adding five more of new discrete goals and objectives.

subsequent agreements and plans is now required for all federal agencies that own or occupy real property in the bay watershed.

Status: The DoD REC provided draft and final copies of the Executive Council's Storm Water Directive to each Military Chesapeake Bay program coordinator in the watershed and co-sponsored regional workshops on Low Impact Development (LID) techniques and Sustainable Design in the Norfolk area on 6 November 2001. The DoD/REC also worked closely with the Army Environmental Center to publicize an intensive two-day LID workshop at Fort Belvoir in April 2002. Both workshops were designed to educate designers and planners at DOD facilities regarding LID techniques and to provide them with criteria and economic analyses necessary to help integrate long-term sustainable designs into current and future construction projects at their respective facilities.

DoD/Navy REC staff are currently working with the Atlantic Division Naval Facilities Engineering Command (LANTDIV), the Commander in Chief, Atlantic Fleet (CINCLANTFLT) and the Naval Facilities Engineering Command (NAVFACENGCOM) local criteria office to integrate LID/sustainable design practices into everyday design and planning functions for both new construction and retrofits. NAVFACENGCOM is also working closely with EPA to develop a Navy/DOD LID criteria manual to ensure that low maintenance, innovative and cost effective storm water management techniques are considered in the conceptual design of all future military construction projects wherever and whenever possible. REC staff recently attended a "Green Roof Technology" overview (sponsored by LANTDIV) and are currently working with Norfolk Naval Shipyard (NNSY) personnel and the Office of the Secretary of Defense (OSD Legacy Program) to identify required funding to install at least one LID demonstration project within the Elizabeth River watershed in the 2003/2004 timeframe.

Impact: LID/sustainable design techniques have been in use in certain parts of the country since the mid-1980's and are gaining increasing acceptance as the technology can potentially decrease initial construction costs as well as long-term maintenance costs, and effectively minimize storm water impacts to receiving water bodies. Since major water quality goals for the Chesapeake Bay and its tributaries have not been met (nor or they likely to be met in the face of increasing development in the watershed), DOD facilities can expect increased regulatory pressure to incorporate LID/sustainable design into future development projects within the region. By continuing to push to incorporate such techniques into the overall business processes of DOD, we can ensure continued compliance with local and regional storm water initiatives, reap considerable cost savings (both-short and long-term), and maintain a leadership position for implementing new technologies and overall effective watershed planning.

E. Pennsylvania/DOD Cooperative Multi-Site Agreement

Issue: In July 1998, the Pennsylvania Department of Environmental Protection (DEP) and the U.S. Departments of the Army, Navy, and Air Force, and the Defense Logistics Agency entered into the first ever Cooperative Multi-Site Agreement (CMSA). This voluntary agreement was designed to prioritize, assess, and remediate contaminated military and former military sites on a state-wide basis.

Background: The CMSA sets up an objective framework to categorize sites so that those presenting the most risk are remediated first. Initially, an inventory of 1,076 military sites in Pennsylvania was assembled. The sites were categorized into several lists of sites. The master plan currently stands at 1,089 sites. Sites on the scheduled sites list have undergone an environmental evaluation, have a tentative remediation schedule covering the 12-year period of the CMSA and are eligible for funding from the responsible military component's environmental restoration

ten percent of these sites, and provide conclusions and recommendations regarding how to best address the remaining 600 or so sites. This DEP effort lasted approximately two years and was called the Pilot Study Program. In addition to the scheduled and study sites, there are Deferred Sites that are not addressed under the CMSA, but these sites have some type of remediation activity on-going. They include NPL sites, all sites on installations closed or transferred under BRAC, RCRA Corrective Action sites, CERCLA sites and other sites where military responsibility has not been established. Resolved Sites have achieved a satisfactory remedy in place, are essentially completed, or DEP concurs with the DOD "No Further Action" determination.

Status: The DEP has completed the two-year Pilot Study Program of representative sites selected from the Study Program Sites list, which the military had deemed "Response Complete" "No Further Action" for remediation.

Impact: Based on the results of the Pilot Study program, approximately 93% of the sites on the Study Program Sites list could be classified as "No Further Action/Response Complete". The remaining 7% of the sites (about 48 sites) may require further assessment and/or remediation. To date 448 sites have been "Resolved" under the CMSA, most as a result of the Pilot Study Program effort. Because of this DoD successful partnering initiative Scranton Army Ammunition Plant became the first military installation in Pennsylvania to complete an installation-wide cleanup under the provisions of the CMSA, two years before it was scheduled to be completed.

II. Success Stories

A. CNRMA Guide to DOD Federal Consistency in the Commonwealth of Virginia

Background: Passed by Congress in 1972, the Federal Coastal Zone Management Act (CZMA) created a national management program to comprehensively manage competing uses of and impacts to coastal uses and resources. The CZMA's Federal consistency provision (CZMA § 307) requires that Federal agency actions, inside or outside designated state coastal zones, that affect any coastal use or resource must be consistent with the Federally-approved enforceable policies of the state's coastal management program.

Resolution & Benefit: To facilitate technically accurate and legally sufficient compliance with CZMA Section 307 Federal consistency requirements, DoD/Navy drafted and promulgated its *Commander, Navy Region Mid-Atlantic Guide to DOD Federal Consistency in the Commonwealth of Virginia*. Designed for use as general reference for facility natural resource planners, the guide provides an overview of Federal Consistency, a description of the components of the nine enforceable policies of the Commonwealth of Virginia's Coastal Resources Management Program, useful practice hints, regulatory citations, flowcharts, agency contacts, and sample agency negative and consistency determinations.

B. Pollution Prevention Partnering

Issue: Pollution prevention (P2) programs at DoD installations are necessary to reduce environmental costs and liability while maintaining operational readiness. Partnering between installations and regulators facilitates transfer of success stories and "lessons learned", and provides a forum for addressing technical and regulatory issues affecting multiple installations.

Resolution: In October 2000, DoD facilities joined with the

Prompted by the success in Virginia, the Maryland Department of the Environment (MDE) requested the DoD REC to assist in establishing a similar partnership in Maryland. The initial meetings of this new partnership were held at the Baltimore MDE office in January and March 2002. Membership will include eighteen DoD facilities from all services, Reserve and National Guard units, and the Defense Reutilization and Marketing Service. Initial goals for this partnership involve improving communication among members, developing and promoting P2 training and education opportunities, identifying P2 solutions for environmental issues, and making measurable environmental improvements. A formal charter signing ceremony is in the initial planning stages for the August - September 2002 time frame.

The DoD REC is investigating opportunities for establishing additional partnerships in the region. Both Pennsylvania and the District of Columbia have recently expressed an interest in discussing P2 partnership formation in their areas.

Benefit: P2 partnerships between DoD installations, States and EPA are proving excellent avenues to share information and discuss issues. In addition, they help establish better communication and relationships with the regulatory community. Virginia, Maryland and EPA have all complimented partnership members on their dedicated and innovative P2 programs.

C. Defense Supply Center Richmond (DSCR) Success Stories

1. Commander-in-Chief's Installation Excellence Award

Issue: The commander-in-chief's installation excellence award was established as a means of recognizing those DoD activities that achieved outstanding accomplishments in the area of customer support, teaming, technology, employee well-being, environmental stewardship, community support, and future innovations over a year's time.

Noteworthy environmental accomplishments included steps taken for energy conservation, teaming efforts with the Commonwealth of Virginia in the development of a center wide environmental management system, improvements in the center's industrial waste treatment program, the establishment of a citizen's Restoration Advisory Board to assist with ongoing superfund cleanup efforts, the successful marketing of re-refined oil within the department of defense, and the management of the ozone depleting substances reserve for the united states military.

Benefit: Receipt of this award displayed the multi-functional and balanced value that DSCR offers to America's War fighters. It also served as recognition of the strong perception of DSCR as a supplier of choice by the DoD and federal community. Lastly, this formal recognition serves as a motivating force for the staff of DSCR. Specifically, not to rest on its' laurels, but to always be searching of ways of improving its' service to its' customers, its' community, and to the United States taxpayer.

2.Establishment of a Citizen's Restoration Advisory Board. (RAB)

Issue: Prior to Calendar Year 2002, the ongoing superfund cleanup program at the Defense Supply Center Richmond had seen little or no public involvement. Any concerns expressed by the public were often negative and were often filled with inaccuracies and rumors. This lack of information sharing on the part of the center had weakened the local community's trust and confidence in the center's activities.

Resolution: On Monday, March 11, 2002, DSCR held its' first Restoration Advisory Board meeting that was attended by the general public. The RAB, which meets monthly, is to advise the DSCR commander on issues arising within the community concerning the ongoing restoration program. During these

Benefit: The RAB meetings will continue to be an excellent forum for the exchange of information and ideas between the center, the regulators, the local community, and the general public.

3. Establishment of a Restoration Advisory Board website.

Issue: Historically, the dissemination of information to the general public regarding the ongoing superfund cleanup actions on DSCR has been slow and incomplete. The public generally had to formally specifically request any desired data and wait for its delivery.

Resolution: On 8 March 2002, the web page for DSCR's RAB and the ongoing superfund cleanup on the center went live. This web page allows for the center to keep the members of its restoration advisory board and the general public up to date with regards to the progress of the cleanup. The web page also allows for the public to easily obtain such information as the description of the various cleanup up activities, a listing of frequently asked questions and their answers, and the addresses and phone numbers of the members of the RAB. Since it went live, the web site, and its information, has been accessed greater than 600 times.

Benefit: The web page will continue to serve as a means of keeping the public easily and timely informed as to the progress DSCR is making with its' cleanup actions, and the subsequent improvements to the local community and its' environment. This free flow of information will ultimately increase the public's trust in the activities and environmental stewardship of the center.

4. DSCR Tank Clean Up Seen as Model Example

Issue: Historically, DSCR has maintained a sound working relationship with Virginia's Department of Environmental Quality. Progress was steady, but noteworthy accomplishments relatively few and far between.

removed, the tank pit was flushed and vacuumed, the seal was repaired, all underground piping was replaced, and new concrete was poured. Virginia's Department of Environmental Quality then inspected the tank. The state regulators were so impressed with the center's clean-up efforts, and its success, that they plan on using the site as a model for others to follow.

Benefit: DSCR's clean up actions, the overall speed of that cleanup, and the coordination with Virginia's Department of Environmental Quality, has gone a long way to solidifying the center's positive relationship with the environmental regulators.

D. Quantico Environmental Compliance Program

Background: Marine Corps Base Quantico as the only major Marine installation in Region III covers 60,000 acres and houses various educational facilities and operational commands. Support activities include vehicle/aircraft maintenance and repair, fueling facilities, weapons cleaning and repair, photographic services, medical and dental clinics, heating plants, wastewater treatment plants, facilities maintenance, training areas, etc. All of these can impact the environment.

Discussion: Pollution prevention is the nucleus of Quantico's environmental compliance program and proactively works to reduce environmental impacts from installation operations. Quantico reduced hazardous waste generation by over 70% since 1992. Several processes that involved hazardous materials or hazardous waste have been altered, such as using less hazardous materials in weapons cleaning, printing and photo processing procedures, switching to digital photography, which eliminates photographic waste, and switching from oil-based to acrylic paint.

Quantico has also implemented several recycling programs. These include used auto batteries, used oil, oil filters, and other waste, waste cleaning solvents, antifreeze, green

prevention problems. Quantico is also a participating member of the Virginia/DoD P2 Partnerships.

In addition to associated cost savings from reduced environmental liability the Quantico pollution prevention program makes a positive impact on the water quality of the Potomac River and ultimately the Chesapeake Bay. On 5 December 2001, Quantico Marine Corps Base received the 2001 Outstanding Achievement in Environmental Excellence for a Federal Facility award from the Alliance for the Chesapeake Bay. MCB is a member of the Alliance's Businesses for the Bay program, a group of businesses and governmental facilities committed to reducing pollution in the Chesapeake Bay. Quantico was chosen for this honor because of its aggressive and proactive pollution prevention policies.

E. Andrews AFB Restoration Partnering

Background: Andrews AFB was listed on the National Priority List in June 1999. The listing included all restoration sites both on the base as well as off site properties. Communication and coordination with EPA and the state was an impediment to progress.

Discussion: Initial Tiered Partnering with EPA, the Maryland Department of Environment and Prince Georges County was established in July 1999. The Air Force has four tiered levels of partnering groups established with the regulators for Andrews AFB. Tiers 1 and 2 are essentially working level groups and Tier 3 and the Senior Partnering groups operate at the executive level. Tier 1 and 2 meet quarterly to discuss restoration progress and scheduling.

Tiered restoration partnering at Andrews AFB has resulted in improved coordination and communication with the regulators. For example, as part of the ongoing site investigation of the Leroy's Lane Landfill site (on-base), the base provided access to an off site tract of land to

property was sampled by the Maryland Department of Environment in a timely and cost effective manner, which prevented potential delays in the remedial investigation at Leroy's Lane Landfill. This was a splendid example of the base working closely with the state to achieve a common goal. A side benefit of this cooperative effort is increasing trust and cooperation between the state and Andrews AFB.